

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-32726

CAROL ANN SPENCER,

Debtor.

Chapter 7 Case

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**NOTICE OF HEARING  
AND  
MOTION OBJECTING TO CLAIMED EXEMPTIONS**

TO: The debtor and other entities specified in Local Rule 9013-3.

Paul W. Bucher, the trustee in bankruptcy in this case (the “trustee”), moves the Court for the relief requested below and gives notice of hearing.

1. The Court will hold a hearing on this Motion at 10:00 a.m. on September 7, 2004, in Courtroom No. 228B, at the United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

2. Because this Motion is being delivered at least 21 days or mailed at least 24 days before the hearing date, any response to this Motion must be filed and delivered not later than August 31, 2004, which is seven days before the time set for the hearing (including Saturdays, Sundays and holidays), or filed and served by mail not later than August 28, 2004, which is ten days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This Court has jurisdiction over this Motion pursuant to Sections 157 and 1334 of Title 28 of the United States Code, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on May 5, 2004. This case is now pending in this court.

4. This Motion arises under Section 522 of the United States Bankruptcy Code (11 U.S.C. §522), Rule 4003 of the Federal Rules of Bankruptcy Procedure, and Local Rule 4003-1(a). This Motion is filed under Rules 9013 and 9014 of the Federal Rules of Bankruptcy Procedure and Local Rules 9013-1, 9013-2, 9013-3 and 9013-5. The trustee requests relief with respect to objections to certain property claimed as exempt by the debtor.

5. The debtor has elected to claim property as exempt under Section 522(b)(2) of the United States Bankruptcy Code. See the attached Schedule C filed in this case.

6. The debtor has claimed the following asset as exempt under the following statutes: Assorted Costume Jewelry and Exercise Equipment under Minn. Stat. §550.37, subd. 4(a) and 4(b). The debtor can exempt wearing apparel, one watch, utensils and foodstuffs under §550.37, subd. 4(a) and household furniture and appliances, phonographs, radio and television receivers under §550.37, subd. 4(b). The trustee objects to the claimed exemptions on the grounds that the assets exempted are not the type of property allowed under these statutes and that the Minn. Stat. §550.37, subd. 4(a) is unconstitutional because it set no objection limits for the exemption.

7. If oral testimony is necessary at the hearing, the trustee will call the debtor: Carol Ann Spencer, 408, Teems Drive, Blue Earth, MN 56013, who will testify concerning value of the assets listed in #6 above, and any other matters, if necessary.

Wherefore, the trustee moves the Court for an order denying the above exemptions claimed by the debtors, and such other relief as the Court finds just and equitable.

Dated: July 22, 2004

/e/ Paul W. Bucher

Paul W. Bucher, Trustee  
206 South Broadway, Suite 505  
Post Office Box 549  
Rochester, Minnesota 55903-0549  
Telephone: (507) 288-9111

### **VERIFICATION**

I, Paul W. Bucher, the trustee in bankruptcy in this case and the moving party named in the foregoing Notice of Hearing and Motion Objecting to Claim of Exemption, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on July 22, 2004

/e/ Paul W. Bucher

Paul W. Bucher  
206 South Broadway, Suite 505  
Rochester, Minnesota 55904

In re

Carol Ann Spencer

/ Debtor

Case No. \_\_\_\_\_

(if known)

**SCHEDULE C-PROPERTY CLAIMED AS EXEMPT**

Debtor elects the exemptions to which debtor is entitled under:

(Check one box)

- ☐ 11 U.S.C. § 522(b) (1): Exemptions provided in 11 U.S.C. § 522(d). Note: These exemptions are available only in certain states.
- ☒ 11 U.S.C. § 522(b) (2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemptions
Residential Home - 408 Teems Drive, Blue Earth, MN	Minn. Stat. Ann. §§510.01, 510.02	\$ 32,574.00	\$ 61,100.00
Household Furnishings - Bedroom sets, Couch, Chairs, Entertainment Center, Old VCR, Old 19" TV, Old stereo, Dining set, Kitchen set, Microwave, Old 12" TV, Lamps	Minn. Stat. Ann. §550.37(4)(b), (4a)	\$ 1,000.00	\$ 1,000.00
Wearing Apparel	Minn. Stat. Ann. §550.37(4)(a)	\$ 300.00	\$ 300.00
Jewelry - Assorted costume jewelry	Minn. Stat. Ann. §550.37(4)(a)	\$ 50.00	\$ 50.00
Exercise Equipment	Minn. Stat. Ann. §550.37(4)(b), (4a)	\$ 75.00	\$ 75.00
Life Insurance Policy - Prudential Financial # DD44 743 432	Minn. Stat. Ann. §550.37(23)	\$ 3,400.00	\$ 3,400.00
Vehicle - 1991 Dodge Spirit (almost 100K miles)	Minn. Stat. Ann. §550.37(4a), (12a)	\$ 1,500.00	\$ 1,500.00

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MINNESOTA

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Bky Case No. 04-32726  
Chapter 7

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**UNSWORN CERTIFICATE OF SERVICE**

I, Jennifer M. Albright, declare under penalty of perjury that on July 22, 2004, I mailed copies of the following:

Notice of Hearing and Motion Objecting to Claimed Exemptions and Proposed Order

by United States Mail, postage pre-paid, to each entity named below at the address stated below:

Laurie Savran  
1422 W. Lake St. Ste 320  
Minneapolis, MN 55408

Carol A. Spencer  
408 Teems Dr.  
Blue Earth, MN 56013

United States Department of Agriculture  
Centralized Servicing Center  
P.O. Box 66879  
St. Louis, MO 63166

UNITED STATES TRUSTEE  
1015 U S COURTHOUSE  
300 SOUTH 4<sup>TH</sup> STREET  
MINNEAPOLIS MN 55415

Executed on July 22, 2004.

Signed: 

Jennifer M. Albright  
DUNLAP & SEEGER, P.A.  
P O BOX 549  
ROCHESTER MN 55903-0549  
(507) 288-9111

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-32726

CAROL ANN SPENCER,

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Chapter 7 Case

**ORDER DENYING CLAIMED EXEMPTIONS**

This matter came before the Court on the 7 day of September, 2004, on the Motion of the Trustee Objecting to Claimed Exemptions. Appearances, if any, were noted of record. Based on the file, proceedings and record in this matter:

IT IS HEREBY ORDERED that:

The Trustee's Motion Objecting to Claimed Exemptions is sustained, and accordingly:

1. The debtor's claimed exemption of Assorted Costume Jewelry and Exercise Equipment is denied.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Gregory F. Kishel  
United States Bankruptcy Judge